

Addendum to Proposed Order No. R6V-2010-Proposed Settlement Agreement  
and Stipulations for Administrative Civil Liability

Consideration of the Factors in Water Code Section 13327

1. Nature, circumstance, extent, and gravity of the violations:  
The alleged violations addressed in this Order include violations of WDR Order No. 6-94-26 (Permit) including the General Provisions of the Permit and its associated Monitoring and Reporting Program. Under the Permit, General Provisions, and Monitoring and Reporting Program, sample collection, storage, and analysis was to be conducted in accordance with an approved Sampling and Analysis Plan ("SAP"). The SAP was required to among other things, establish chain of custody procedures to ensure that specific individuals are responsible for sample integrity from commencement of sample collection through delivery to an approved lab. In its June 16, 2009 Notice of Violation and separate ACL Investigation Letter, the Lahontan Water Board Prosecution Team identified alleged violations of the above stated provisions beginning March 2003. Additionally, the Lahontan Water Board Prosecution Team noted several occasions where the Discharger submitted self-monitoring reports with duplicated monitoring and reporting information in violation of the Permit terms and California Water Code section 13267.

Though these alleged violations are non-discharge violations, violations of monitoring and reporting requirements undermines the integrity of the self-monitoring program and the reliability of the data reported to the Lahontan Water Board. Without confidence in the data that is self-reported to the Lahontan Water Board, it cannot adequately ensure that water quality is being protected. The monitoring and reporting requirements relate to the sampling of wastewater discharged from the WWTP and sampling of groundwater in an environmentally sensitive area.

2. Susceptibility to cleanup or abatement:  
The alleged violations are non-discharge violations; therefore, susceptibility to cleanup or abatement is not an applicable consideration.
3. The degree of toxicity of the discharge:  
The alleged violations are non-discharge violations; therefore, toxicity of the discharge is not an applicable consideration.
4. Ability to pay:  
There has been no indication that the Discharger has an inability to pay the administrative civil liability as stated in this Order.

5. The effect on ability to continue doing business:  
There has been no indication that the payment of the administrative civil liability would have an effect on the Discharger's ability to continue doing business.
6. Voluntary cleanup efforts undertaken:  
The alleged violations are non-discharge violations; therefore, voluntary cleanup efforts are not an applicable consideration. However, the Discharger did cooperate in returning to compliance. On July 30, 2009, the Discharger submitted its Sampling and Analysis Plan in response to and in compliance with, the June 16, 2009 Notice of Violation. In addition, the Discharger submitted a lengthy and detailed response to the ACL Investigation Letter (and NOV), in which the Discharger, among other things, identified corrective measures implemented or to be implemented as a result of the ACL Investigation and NOV. Finally, the Discharger has agreed to implement an Enhanced Compliance Action ("ECA") at the WWTP.
7. History of violation:  
In May 2006, there was a 1.5 million gallon spill of raw sewage from the WWTP. This matter was resolved by the Lahontan Water Board in Board Order No. R6V-2008-0003 in the amount of \$300,000. In May 2007, the Lahontan Water Board issued Cleanup and Abatement Order No. R6V-2007-0017 directing the Discharger to provide an uninterrupted replacement water supply to well owners with elevated nitrate concentrations in private drinking water supply wells in the area north of the Mojave River.
8. Degree of culpability:  
As the named Permittee, the Discharger is required to comply with the terms of the Permit. The provisions of the Permit, General Provisions, and corresponding monitoring and reporting program set forth the requirements that the Discharger must comply with. It's the Discharger's responsibility to ensure that samples collected, stored, and analyzed are done in accordance with an approved Sampling and Analysis Plan. The Discharger is also responsible for oversight of its contract operators and work performed by its contract operators ensuring that it complies with the terms of the Permit, General Provisions, and monitoring and reporting program.
9. Economic benefit or savings, if any, resulting from the violation:  
The cost of completing a Sampling and Analysis Plan was a delayed cost adequately recaptured by the proposed administrative civil liability.
10. Other matters as justice may require:  
No other factors were considered.